IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12041 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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DECD.JASHVANSINH NAHARSING

Versus

SPECIAL LAND ACQUISITION OFFICER(FORESTS)

Appearance:

1. Special Civil Application No. 12041 of 2000

MR SR DIVETIA for Petitioner No. 1-1/2

MS DS PANDIT ASST GOVERNMENT PLEADER for Respondent No. 1-2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 30/08/2001

ORAL JUDGEMENT

#. Heard Mr.S.R.Divetia, learned advocate appearing on behalf of the petitioner and Ms.D.S.Pandit, learned AGP appearing on behalf of the respondents. The present petitioners are the owners of the various lands situated at village Vanzar and village Nana Samera of District

Sabarkantha. It is the case of the petitioners that all the aforesaid lands of the petitioners were acquired by the State Government under the provisions of the Gujarat Private Forest [Acquisition] Act, 1972 and the possession of the said lands were taken on 1-8-1973. It is also submitted that after the possession was taken, the petitioners had submitted two applications to the concerned authority on 10-9-74 for making Reference to the respondent No.1. Thereafter, another application was given to the respondent No.1 on 21-7-1979 but the same was rejected by the Deputy Collector, Sabarkantha on 21-7-2000.

#. Learned advocate Mr.S.R.Devitia has submitted that the respondents authority has rejected the application of the petitioners only on the ground of limitation as their application is subsequent to 31st December, 1980. Learned advocate Mr.Divetia has pointed out that on pg.22 the petitioners had submitted application for compensation on 10-9-74 with a request to the Collector to give compensation and thereafter on 25-8-1979, the application has been submitted by the petitioner to give compensation but on the said application, no order has been passed nor any decision has been arrived at by the respondent authority and the concerned authority has considered the subsequent application dated 21-7-2000 submitted by the advocate on behalf of the petitioner. However, it was in fact the reminder of the earlier application which was submitted by the petitioner for demanding compensation from the concerned authority. It is pertinent to note that no affidavit in reply has been filed by the respondent. However, learned AGP Ms.Pandit, appearing on behalf of the respondents has fairly submitted that if the application for compensation submitted by the petitioner on 10th Sept, 1974 and 25th August, 1979 if remained pending and no decision has been taken so far, in that case, some suitable directions may be issued to the concerned authority to take appropriate decision on such application within some reasonable time.

#. I have considered the submissions of learned advocates for the parties. Considering the record of this petition, pg.22, 23, and 24 are the copies of the applications dated 10th Sept, 1974 and 25th August, 1979 submitted by the petitioner demanding the compensation from the concerned authority. However, Ms.Pandit, learned AGP for the respondents has submitted that said applications have not been received by the concerned authority. As against this, learned advocate Mr.Divetia has shown to this Cout the copy of the application dated 10th September, 1974 and 25th August, 1979, wherein

endorsement has been made by the officer concerned as received, where the date of receipt is also mentioned. I have perused these all applications, wherein an endorsement of receiving these applications are made by the officers or the concerned person. There also appears the date of receiving the applications. Therefore, considering this fact the applications were already received by the respondents - concerned authorities on or before 31st December, 1980. Therefore, it was the duty of the concerned authority to decide such applications but on the contrary, said application has been rejected only on the ground of limitation. In light of facts and circumstances discussed above, the present petition deserves to be allowed and the same is allowed accordingly. It is directed to the respondents to consider two applications dated 10th September, 1974 and 25th August, 1979 and to pass appropriate orders on all three applications as referred to above, within period of three months from the date of receiving the certified copy of this order. It is further directed to the respondents authority to communicate the decision to the petitioners immediately without any delay. Rule is made absolute accordingly.

Date : 30-8-2001 [H.K.Rathod, J.]

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